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Prepared By _____

Approved By _____

An act to amend Sections 2764, 6920, 7381, 8231, 8238, 8238.1, 8239, 8239.1, 8239.2, 8241, 8243, 8244, 8245, 8246, 8246.2, and 8246.4 of, to repeal Sections 2762.5, 2762.6, 6924, 8239.9, 8245.5, 8247, 8247.1, 8247.2, 8247.3, 8247.4, 8247.5, 8247.6, 8247.7, and 8247.8 of, and to repeal Article 7 (commencing with Section 7400) of Chapter 2 of Part 2 of Division 6 of, and Article 1.6 (commencing with Section 7660) of Chapter 1 of Part 3 of Division 6 of, the Fish and Game Code, relating to advisory bodies.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2762.5 of the Fish and Game Code is repealed.

~~2762.5. In addition to subdivision (b) of Section 2762, the moneys in the Fisheries Restoration Account may be expended, upon appropriation by the Legislature, by the department to fund the administrative costs of the Advisory Committee on Salmon and Steelhead Trout.~~

SEC. 2. Section 2762.6 of the Fish and Game Code is repealed.

~~2762.6. The department shall, after consultation with the Advisory Committee on Salmon and Steelhead Trout, allocate that amount of moneys appropriated to the department from the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund which the department determines to be necessary to pay the costs for the advisory committee.~~

SEC. 3. Section 2764 of the Fish and Game Code is amended to read:

2764. The director shall consult with other responsible state agencies and appropriate fishery advisory committees, including, but not limited to, ~~the Advisory Committee on Salmon and Steelhead Trout~~ and the Striped Bass Stamp Advisory Committee, in developing projects to be funded pursuant to Section 2762.

SEC. 4. Section 6920 of the Fish and Game Code is amended to read:

6920. (a) The department shall, with the advice of ~~the Advisory Committee on Salmon and Steelhead Trout~~ and the Commercial Salmon Trollers Advisory Committee, prepare and maintain a detailed and comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries.

(b) The department shall consult with every public agency whose policies or decisions may affect the goals of this program to determine if there are feasible means for those public agencies to help the department achieve the goals of this program.

SEC. 5. Section 6924 of the Fish and Game Code is repealed.

~~6924. The department shall determine the initial elements of the program and transmit a report describing those elements to the Legislature and the Advisory Committee on Salmon and Steelhead Trout within six months of the effective date of this chapter.~~

SEC. 6. Section 7381 of the Fish and Game Code is amended to read:

7381. (a) Revenue received pursuant to Section 7380 may be expended, upon appropriation by the Legislature, only to monitor, restore, or enhance steelhead trout resources consistent with Sections 6901 and 6902, and to administer the fishing report-restoration card program. ~~The department shall submit all proposed expenditures, including proposed expenditures for administrative purposes, to the Advisory Committee on Salmon and Steelhead Trout for review and comment before submitting a request for inclusion of the appropriation in the annual Budget Bill. The committee may recommend revisions in any proposed expenditure to the Legislature and the commission.~~

(b) The department shall report to the Legislature on or before July 1, 2016, regarding the steelhead trout fishing report-restoration card program's projects undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendations for revising the fishing report-restoration card requirement, if

any. The report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 7. Article 7 (commencing with Section 7400) of Chapter 2 of Part 2 of Division 6 of the Fish and Game Code is repealed.

SEC. 8. Article 1.6 (commencing with Section 7660) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code is repealed.

SEC. 9. Section 8231 of the Fish and Game Code is amended to read:

8231. The following definitions govern the construction of this article:

(a) "Agent" means the person designated in writing by the owner as the owner's representative.

(b) "Appeal" means a request for reconsideration of an action of the review board, the department, or the commission pursuant to this article.

(c) "Change of ownership" means the transfer of ownership of a permitted vessel to a new owner.

(d) "Commercial salmon vessel permit" means an annual permit issued by the department to an owner of a commercial fishing vessel for use of that vessel to take salmon for commercial purposes and shall not be considered personal property.

(e) "Fishing potential" means the capability and capacity for harvesting salmon of a particular commercial fishing vessel. "Fishing potential" includes, but is not limited to, a rating based upon factors such as size, seaworthiness, propulsion system, hold size, and hull design.

(f) "Permit" means a commercial salmon vessel permit as defined in subdivision (d).

(g) “Permitted vessel” means a commercial fishing vessel for which a permit is currently valid.

(h) “Replacement vessel” means a commercial fishing vessel for the use of which a permit is proposed to be transferred pursuant to this article.

(i) ~~“Review board” means the commercial salmon fishing review board created pursuant to Section 8247.~~

(j)

(i) “Transfer” means the issuance of a permit for use of a replacement vessel.

SEC. 10. Section 8238 of the Fish and Game Code is amended to read:

8238. On or before January 1, 1991, the department, ~~in consultation with the review board,~~ shall establish and adopt, in the manner prescribed in Section 8238.3, a vessel classification system to determine the fishing potential of replacement vessels for applications for transferred permits to be issued pursuant to Section 8241, including consideration of how the vessel from which the permit is sought to be transferred was used, the vessel’s highest and best use by a prudent operator, and the fishing potential of prospective vessels for applications for new, original permits.

SEC. 11. Section 8238.1 of the Fish and Game Code is amended to read:

8238.1. The vessel classification system shall be used by the department ~~in consultation with the review board~~ for issuance of new original vessel permits pursuant to Section 8243 ~~and as a guideline for the review board in making its recommendations to the department on vessel permit transfers.~~

SEC. 12. Section 8239 of the Fish and Game Code is amended to read:

8239. A transfer may be approved and a permit issued for use of a replacement vessel pursuant to Section 8241 under all of the following conditions:

(a) The vessel owner submits a written request for the transfer to the department on a form provided by the department and pays a nonrefundable transfer fee of two hundred dollars (\$200).

(b) The permit for the permitted vessel is current, and the owner of the permitted vessel makes assurances in the application that any renewal of the permit which becomes due during the application processing period will be made.

(c) The owner of the permitted vessel submits evidence with the application sufficient to establish that he or she is the owner of the permitted vessel at the time of the application for the transfer.

(d) The vessel owner submits evidence with the application sufficient, in the judgment of ~~the review board and~~ the department, to establish that the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.

(e) Under penalty of perjury, the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her information and belief.

(f) The same transfer has not been requested within the previous 12 months or the same transfer has not previously been denied and that denial is final, unless the application or supporting information are different than that contained in the previous application, as determined by the department ~~and after consultation with the review board.~~

(g) The permittee has 50 percent or greater ownership interest in the permitted vessel and in the replacement vessel. For purposes of this subdivision and subdivision

(h), “permittee” means an individual designated as the owner of the permitted vessel.

(h) Except as provided in Section 8239.1 or paragraph (5) of subdivision (a) of Section 8246.7, the permittee has maintained a 50 percent or greater ownership interest in the permitted vessel for not less than 18 months prior to the date of the transfer and the permit for use of the permitted vessel has been maintained for that vessel and has not been previously transferred less than 18 months prior to the date of the transfer.

(i) The permittee has written authority from the legal owner, if other than the permittee or mortgager, if any, to transfer the vessel permit from the permitted vessel.

SEC. 13. Section 8239.1 of the Fish and Game Code is amended to read:

8239.1. (a) Unless otherwise prohibited, the department shall accept a transfer application within one year after the date that a permitted vessel was lost, stolen, or destroyed, notwithstanding any inability to physically examine the permitted vessel to determine its salmon fishing potential. Only the permittee at the time of the loss, theft, or destruction of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss.

(b) (1) The owner, or the owner’s agent, may request an extension of the time to complete a transfer under subdivision (a) if the application for extension is submitted before the end of the time to submit an application under subdivision (a), or before the end of any previous extensions granted under this subdivision, whichever date is later.

(2) The department, ~~after consultation with the review board and~~ for good cause shown, including, but not limited to, inability to find a replacement vessel or pending litigation, may grant an extension of the time to complete a transfer under subdivision (a) for a period of six months. The department may grant further extensions under this subdivision, not to exceed a total time period of five years after the date the permitted vessel was lost, stolen, or destroyed if the permit fees are paid annually as required in paragraph (2) of subdivision (b) of Section 8239 and subdivision (c) of Section 8240.

SEC. 14. Section 8239.2 of the Fish and Game Code is amended to read:

8239.2. The department, ~~in cooperation with the review board,~~ shall establish and implement administrative procedures for the administration of this article.

SEC. 15. Section 8239.9 of the Fish and Game Code is repealed.

~~8239.9. Notwithstanding Section 8239, 8239.1, or 8239.2, any person may request the review board to determine the fishing potential of any permitted vessel or any replacement vessel before a transfer application for a permit for use of a replacement vessel is submitted to the department. The person making a request under this subdivision is not required to be the owner of either vessel. A determination under this subdivision is not binding on the review board or the department and is only advisory.~~

SEC. 16. Section 8241 of the Fish and Game Code is amended to read:

8241. The department shall issue the permit for use of a replacement vessel if it determines, ~~after consultation with the review board,~~ the following:

(a) The replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel. ~~The review board and the department shall consider~~ the type of fishery the vessel was previously used in and the vessel's highest and best

use by a prudent operator, ~~and the review board shall make written findings on those facts.~~

(b) The replacement vessel's fishing potential will not substantially increase fishing capacity over that which resulted from the operation of the permitted vessel.

(c) The applicant owns the replacement vessel.

(d) The conditions in this article are satisfied.

SEC. 17. Section 8243 of the Fish and Game Code is amended to read:

8243. (a) If the department determines that the number of permitted vessels is less than 2,500, the department shall determine, ~~after consultation with the review board,~~ the number and vessel classification for which any new, original permits may be issued to bring the total number of permitted vessels to no more than 2,500.

(b) New, original permits to be issued shall be authorized by vessel classifications established under Section 8238.

SEC. 18. Section 8244 of the Fish and Game Code is amended to read:

8244. (a) An applicant may apply for a new, original permit as an individual, a joint venture, or a corporation. The applicant may submit only one application annually. The application shall be made on a form provided by the department.

(b) An applicant for a new, original permit under this section shall submit a completed application as directed by the department. The completed application, and the application fees prescribed in subdivision (c), shall be delivered or postmarked on or before February 1 in order to be considered for permits for the subsequent permit year.

(c) The applicant shall submit with the application a nonrefundable application fee determined by the department in an amount sufficient to pay the costs of administering the issuance of new, original permits by the department, which shall be not less than thirty-five dollars (\$35).

(d) The department, ~~after consultation with the review board,~~ shall determine the fishing potential of the vessel for use of which the new, original permit is to be issued and otherwise determine if the applicant is eligible to be issued a permit under this article.

SEC. 19. Section 8245 of the Fish and Game Code is amended to read:

8245. (a) The department shall conduct a drawing from the applicants determined to be eligible for new, original permits pursuant to Section 8244 on the first Friday in March of each year that new, original permits are authorized to be issued pursuant to Section 8243.

(b) (1) The department shall issue a permit to each of those applicants who are drawn upon payment of the fees prescribed in paragraph (2) for the permit and, except as provided in subdivision (d), submittal of sufficient information to establish that the applicant is the owner of a vessel within the vessel classification designated in the application.

(2) The amount of the fees for a permit issued under this section are the same as the amount of the fees for renewal of a permit for the subsequent license year beginning on April 1 which are established pursuant to subdivision (b) of Section 8235. A successful applicant shall pay the fees for the permit on or before March 31. The department shall deposit the fees to the fund pursuant to Section 13001.

(c) Except as provided in subdivision (d), a successful applicant shall submit proof of ownership of the vessel to be used under the permit within 90 days of the drawing.

(d) (1) A successful applicant may request one extension of no more than 90 days to obtain a vessel as designated in the application. The department, ~~after consultation with the review board,~~ may grant that extension.

(2) If any successful applicant does not establish that he or she is the owner of a vessel as designated in the application and affix the new permit on that vessel or on another vessel with the same or less fishing potential, as determined by the department after consultation with the board, within 90 days or by the end of a ~~90-day~~ 90-day extension granted by the department, the new permit is null and void.

(3) The department ~~or the review board~~ is not liable for any risk of failure by the applicant to obtain a vessel which is designated in an application or to complete the process for determination of the fishing potential of another vessel, or for failure by the applicant to obtain that other vessel, in the time prescribed in this section.

SEC. 20. Section 8245.5 of the Fish and Game Code is repealed.

~~8245.5. The review board shall review the effectiveness of new entry provisions every three years beginning three years following the first permit drawing and make recommendations to the department for any changes it finds to be needed in the new entry system.~~

SEC. 21. Section 8246 of the Fish and Game Code is amended to read:

8246. (a) At any time after notice of an order suspending or revoking of a person's commercial salmon fishing privilege is issued by the commission, and before

the order of suspension or revocation is final, the commission may, with the agreement of the person subject to the action, compromise or dismiss the action to suspend or revoke the commercial salmon fishing privilege in the best interests of the state, or the commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.

(b) The commission, after notice and opportunity for hearing ~~and consultation with the review board~~, may suspend or revoke the commercial fishing privilege, authorized under a license issued for the purposes of Section 7850 or 7852.3, for any violation of a term or condition of an agreement to compromise or dismiss a separate suspension or revocation action which was made pursuant to subdivision (a).

(c) If the commission orders a suspension or revocation of a person's commercial salmon fishing privilege, any permit issued pursuant to this article shall be renewed when the next renewal is due or the permit shall expire as provided in Section 8233.

(d) Subdivision (b) does not apply if an action is brought to recover civil damages under Section 2014 from the person subject to action under this section.

SEC. 22. Section 8246.2 of the Fish and Game Code is amended to read:

8246.2. (a) The commission, in consultation with the department ~~and the review board~~, shall adopt regulations for the determination of civil damages provided for in subdivision (b) of Section 8246 which give due consideration to the appropriateness of the civil damages with respect to all of the following factors:

(1) The gravity of the violation.

(2) The good faith of the convicted licensee.

(3) The history of previous violations.

(4) The damage to the fishery.

(5) The cost of restoration of the fishery.

(b) Civil damages imposed under subdivision (b) of Section 8246 shall be due and payable on or before a date which is 30 days after the compromise is entered into.

SEC. 23. Section 8246.4 of the Fish and Game Code is amended to read:

8246.4. The commission, after notice and opportunity for hearing ~~and consultation with the review board~~, shall revoke a commercial salmon vessel permit issued pursuant to this article if the vessel permit was obtained by fraudulent means.

SEC. 24. Section 8247 of the Fish and Game Code is repealed.

~~8247. There is in the department a commercial salmon fishing review board, which consists of five voting members appointed by the director. The director or a designee of the director shall attend meetings of the review board as a nonvoting member. The director may remove a member of the review board for cause.~~

SEC. 25. Section 8247.1 of the Fish and Game Code is repealed.

~~8247.1. (a) Three of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by associations or groups representing commercial salmon fishing vessel owners.~~

~~(b) Two of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by individual commercial salmon fishing vessel owners.~~

~~(c) Any voting member of the review board may appoint an alternate member to represent him or her at any meeting of the review board. The director may, within 60 days of the appointment, refuse an alternate member. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties of a member of the commercial salmon fishing review board, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.~~

SEC. 26. Section 8247.2 of the Fish and Game Code is repealed.

~~8247.2. The terms of the members of the review board shall be for staggered four year terms. Necessary and proper expenses shall be paid to review board members. Each member, or any alternate member participating on behalf of a regular member in that member's absence, shall receive one hundred dollars (\$100) per day for each day of attendance and participation in meetings of the review board.~~

SEC. 27. Section 8247.3 of the Fish and Game Code is repealed.

~~8247.3. Each member appointed to the review board under this article as it read prior to its reenactment in the 1988 portion of the 1987-88 Regular Session shall continue to serve for the term for which he or she was appointed and may be reappointed.~~

SEC. 28. Section 8247.4 of the Fish and Game Code is repealed.

~~8247.4. The review board shall function as an advisory body to the department regarding implementation of the provisions of this article. The review board shall act by a majority vote of the members present and voting. The review board shall not act~~

~~unless there is a quorum of the voting members, including alternate members in the absence of their appointing members, and the director or his or her designee present.~~

SEC. 29. Section 8247.5 of the Fish and Game Code is repealed.

~~8247.5. (a) The Legislature declares that individuals appointed as members of the review board shall be chosen from the commercial salmon fishing industry in order to represent and further the interest of the industry and commercial salmon fishing vessel owners, and this representation serves the general public interest.~~

~~(b) Each member of the review board is exempt from Section 87100 of the Government Code, unless the result of his or her actions taken as board members has a material financial effect on him or her distinguishable from its effect on other members of the commercial salmon fishing industry generally.~~

SEC. 30. Section 8247.6 of the Fish and Game Code is repealed.

~~8247.6. Members and alternate members of the review board shall act in the best interest of the state, the department, and the commercial salmon fishing industry. As members of the review board, no member or alternate member shall take any action, because of his or her position, that results in a direct material effect on any of them, distinguishable from its effect on other members of the commercial salmon fishing industry.~~

SEC. 31. Section 8247.7 of the Fish and Game Code is repealed.

~~8247.7. The director may adopt standards and criteria by regulation that shall be applied by the review board in carrying out its activities under this article.~~

SEC. 32. Section 8247.8 of the Fish and Game Code is repealed.

~~8247.8. The review board shall do all of the following:~~

~~(a) Consider and make recommendations to the department on requests for permit transfers.~~

~~(b) Recommend to the department, the number and classification of new vessel permits to be issued annually, if any, pursuant to Section 8243.~~

~~(c) Consult with and advise the commission as required by Sections 8246, 8246.2, and 8246.4.~~

~~(d) Consult with the department and advise on the establishment of the vessel classification system pursuant to Section 8238.~~

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Prepared By _____

Approved By _____

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Advisory bodies: elimination.

Existing law provides for the appointment of a 9-member Recreational Abalone Advisory Committee to review proposals and recommend to the Director of Fish and Game projects and budgets for the expenditure of fees from abalone report cards.

This bill would eliminate that advisory committee.

Under existing law there is the Advisory Committee on Salmon and Steelhead Trout, with membership as prescribed, and the Department of Fish and Game is required to consult with the advisory committee, as specified.

This bill would eliminate that advisory committee.

Existing law provides for the appointment of a 5-member commercial salmon fishing review board to function as an advisory body to the department regarding commercial salmon fishing.

This bill would eliminate the review board.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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